



#4

Application Serial No. 09/812,720

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mellencamp, Mark W.
Title: EQUINE HERPESVIRUS
VACCINE
Application No.: 09/812,720
Filing Date: 03/20/2001
Examiner: To be determined
Art Unit: 1642
Attorney Docket No.: 041303-0138

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on the date below.

Karen Meier
(Printed Name)

Karen Meier
(Signature)

August 3, 2001
(Date of Deposit)

Commissioner for Patents
Washington, D.C. 20231

INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.56

Submitted herewith on Form PTO-1449 is a listing of documents known to Applicant in order to comply with Applicant's duty of disclosure pursuant to 37 C.F.R. § 1.56. A copy of each listed document is being submitted to comply with the provisions of 37 C.F.R. § 1.97 and § 1.98.

The submission of any document herewith, which is not a statutory bar, is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 C.F.R. § 1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* art reference against the claims of the present application.

TIMING OF THE DISCLOSURE

The listed documents are being submitted in compliance with
37 C.F.R. § 1.97(b), before the mailing date of the first Office Action on the merits.

RELEVANCE OF EACH DOCUMENT

The relevance of the foreign-language documents is described in the present specification. English translations of the foreign-language documents are not readily available. However, the absence of such translation does not relieve the PTO from its duty to consider the submitted foreign language documents (37 C.F.R. § 1.98 and M.P.E.P. § 609).

Mayr et al. ("Charakterisierung eines Stutenabortvirus aus Polen und Vergleich mit bekannten Rhinopneumonitisvirus-Staemmen aus Pferdes" (1965)) describe an agent isolated in Poland from an aborted horse fetus. The agent was characterized as an equine rhinopneumonitis virus (RAC strain). The virus was characterized with a neutralization test as a subtype 2 strain.

Mayr et al. (Berliner und Munchener Tierarzliche Wochenschrift"; vol. 19, pp. 372-378 (1968)) describe the differentiation, clinical signs, epidemics, diagnosis and controls of the most important viral diseases in horses. The viruses were classified by their morphological, chemical-physical and biological properties.

Applicant respectfully requests that the listed documents be considered by the Examiner and be made of record in the present application and that an initialed copy of Form PTO-1449 be returned in accordance with M.P.E.P. § 609.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise

improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

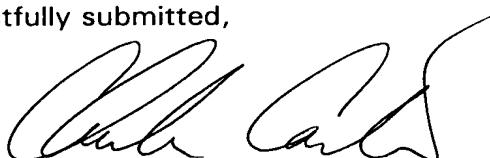


Date AUG. 3, 2001

FOLEY & LARDNER
Firststar Center
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5367
Telephone: (414) 297-5842
Facsimile: (414) 297-4900

Respectfully submitted,

By

A handwritten signature in black ink, appearing to read "Charles G. Carter".

Charles G. Carter
Attorney for Applicant
Registration No. 35,093